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Paradoxes of the Expansion of Women's Rights in Brazil

In the last few decades, the processes of universalisation of human rights, as an expression of the expansion of values associated with western modernity to the rest of the world, has generated a debate in which at times the universalist vision is exalted as allowing a superior form of social coexistence, and at others is condemned for dissolving local habits and customs. Thus the heated sociological discussions of globalisation are almost always charged with robust normative and prescriptive content that limits the analytical potentialities of this phenomenon.

The recent debate about globalisation and cultural systems seems to have revived an old dispute in sociology between the theory of modernisation and the currents of culturalist inspiration. In the first case, the theory of modernisation, which had an important impact on the Latin American social sciences, considers that the surpassing of traditional values prevalent in these societies would come about through, among other factors, the emergence of modernised elites. Such elites would be responsible for the introduction of a set of institutions, such as the market, education, the legal system etc., that would substitute traditional motivation and patterns of behaviour (Germani 1969).

Contrary to this theory, the culturalist and historicist currents emphasize the processes of resistance to the structural and cultural changes introduced by modernisation. The strengthening of communitary cultures, the vigour of religious adhesion and practices, and the production of popular cultural manifestations would be interpreted as movements expressing resistance to modernity (Berger/Berger/Kellner 1974).

This work seeks to escape from the antinomy between modernity and resistance, in order to approach the complexity of the phenomenon of the local reception of universalist discourses through analysis

of feminist practices aimed at expanding the global agenda of women's rights in Brazil.

We intend to show that the feminist agenda inspired by individualist, egalitarian and universalising values is transformed, and, at times, shifts away from the original intention. This occurs by virtue of the process of appropriation and transformation of this agenda, as well as of the institutions inspired by it, by local social players inserted into specific socio-cultural contexts. It does not constitute, however, a simple game of acceptance or rejection of modern values by local players, but a tense and sometimes paradoxical articulation between institutions based on human rights and rules of sociability present in significant portions of the Brazilian population.

It has already become commonplace in the international literature of the social sciences to recognize that the post-60s feminist movement had an overwhelming impact on the ways contemporary societies think of and question themselves. Today, it seems impossible to think of democracy, citizenship, social inequalities, changes in family organisation, forms of work, among so many other dimensions of social life, without taking into account as a reference the constitution of a new social subject, women, and a form of domination, that of gender, created by feminist discourse.

As is well-known, the feminist movement in the developed countries arose and constructed its principal formulations, practices and institutions, in creative dialogue with values and principles built into the Western tradition of liberal democracy and citizenship.

It is evident to any social scientist that Brazil is very far from practising a democracy that fulfils developed country standards. Nevertheless, the social, economic and political transformations undergone by Brazilian society in the last few decades, the political democratisation, the expansion of higher education, the development of means of communication, have caused the emergence of social groups bearing democratic values and expectations.

The feminist movement that re-emerged in Brazil in the mid-70s is a product of the modernisation in the country. The social origin of its activists is found in highly educated middle class professionals and who, therefore, are more exposed and sensitive to the developments of international feminism.

In fact, the typical path followed by feminists of that time included passage through the experience of militancy in left-wing organisations in Brazil or in exile, followed by passage through feminist groups in the country or abroad and through action in the broad movement against the dictatorship during the long years of the “democratic opening” which extended into the 1980s.

The active participation of feminists in the country's movement for democratisation brought them into closer contact with feminists from other social groups, diversifying their experience beyond the existential and political world of the middle classes. In fact, the resistance movement to the dictatorship aggregated social forces, until then isolated from each other, popular groups from the outskirts of large cities, middle class professionals, trade union leaders, housewives, businessmen, clergy and priests, to cite just a few components of the great coalition that rose up against the military dictatorship.

The consequence in Brazil of the historical experience of participation of feminists in a broad political alliance was the creation of a feminism much more sensitive to the questions of social inequalities, unlike what occurred in other countries in North America and Europe. This historical experience is also reflected in the focus of the feminist movement on the problems that women from the working and poorer classes had greatest difficulties in facing: health, violence and work.

The construction of an agenda of claims to the State concentrated the efforts of the Brazilian feminist movement during the democratic period. The creation of public institutions specialised in attending to women in these matters was the result of a long process of pressure and negotiation with the State.

We must recognize, however, that local social practices – values, political culture and traditional forms of domination – attribute new meanings to the social institutions inspired by feminism. Instead of adopting a linear perspective that aims at measuring the distance between the feminist utopia and social reality, in the style of the old theories of modernisation, we intend to analyse the interactions between the feminist agenda and current social practices. It is therefore a matter of recognizing that the Brazilian historical and social context operates a complex process of (re)elaboration of the discourse and the social institutions inspired by feminist ideals, despite its universalising aspiration.

We would like to illustrate the complexity of the process of diffusion of the feminist agenda in the Brazilian context with two examples. The first refers to the specificities of the form of utilisation of the police apparatus of the *Delegacias Especializadas de Atendimento à Mulher* – DEAMs [Special Police Stations for Women] by the victims of conjugal violence, and the second identifies some unintentional consequences of the frequency of women rape victims using the health services recently created to help them.

1. Conjugal Violence: Crime or Misbehaviour?

According to what has already been affirmed, reception of the feminist values in Brazil has not been linear, but has implied conflicts and settlements. In countries with a liberal, democratic tradition, the political language prevalent in the feminist movement was that of the individual rights of women to decide over their own bodies, enshrined in the slogan “our body belongs to us”.

In Brazil, it is the social rights that provide legitimacy to the feminist discourse, as the validation of sexual rights as an exercise of women’s individual rights met with strong resistance. On the one hand, the conservative sectors, in general linked to the Catholic Church, managed to mobilize a powerful anti-liberal discourse. On the other hand, sectors of the left-wing and also some of feminism, manifested intense discomfort with the formulation that espouses individual liberty. In fact, for these segments, the recognition of the profound privations marking the living conditions of the majority of Brazilian women seems more important than the affirmation of their free will regarding their bodies. From this formulation there arose a set of social policies that aimed, above all, at the guarantee of access to public services in the area of violence and reproductive rights, like pre-natal accompaniment, access to contraception methods – indeed a full range of female health services.

Regarding the emergence of the theme of conjugal violence, the contrast with the reality in developed countries is great. Here this theme has become a political issue and has been seen as a social problem since the beginning of the 80s. The great repercussion in the press of the murder of women from middle class families by their husbands, was the deflagrating event upon entry of this theme into the public

agenda (Sorj/Montero 1985). In France and the United States, as Machado (2002: 3) stressed, while the question of conjugal violence comes to the surface from women's quotidian experiences and from denunciation of masculine control over their bodies, in Brazil, it was the exposure of some extreme cases of men's power over the lives of women that was the element capable of arousing public opinion. The consequence of this fact was the delimitation of the perception of conjugal violence in its most extreme and threshold expression, which favoured a vision of the aggressor as deviant, sick, perverse, passionate etc. Thus, conjugal violence was not understood as a behaviour inscribed within the field of possibilities of unequal gender relations, but as an exceptional event in the man-woman relationship. The understanding of conjugal violence as an exceptional fact in family relations was subjacent to all the institutional initiatives to combat violence in the country.

At the end of the 1970s, the women's movement began to denounce on a broad front the acquittal, by court juries, of wife murderers on the allegation of "legitimate defence of honour". At the start of the 1980s, feminist groups arose in various cities all over the country, called SOS-Mulher [SOS-Women], which provided legal, social and psychological services to women who were victims of violence. The then strong and successful politicisation of the theme of gender violence by SOS-Mulher gave rise to prioritisation of this theme in 1983, in São Paulo, with the establishment of the *Conselho Estadual da Condição Feminina* [State Council for the Female Condition], created under the Franco Montoro government. The first police station of this type arose in 1985 in the city of São Paulo, but while today there are over 350, they cover only 10% of the Brazilian municipalities, São Paulo representing around one third of them.

The DEAMs constitute the principal public policy for combat and prevention of violence against women in Brazil, especially conjugal violence. They are considered the most important Brazilian institutional innovation in the area of violence, with an important repercussion in other Latin American countries, above all for having introduced the world of law, justice and impersonality into the private sphere, into the realm of conjugal intimacy. Its legal function is to detect legal offences, investigate their source and criminalise domestic violence.

However, some years after establishing the DEAMs, feminists were surprised by the behaviour presented by a large number of women who resorted to the service provided by the special police stations. This behavioural pattern on the part of the victims, which may reach 70% of cases, is that the woman seeks out the police station, presents a denunciation or complaint against her aggressor, but then desists from proceeding with the police inquiry. In Brazil, significant discrepancies are identified between the number of complaint registrations and the number of police inquiries, the latter always being much less.

Researches (Soares 1996; Brandão 1997) reveal that the use of the DEAMs by women seem to follow a diverse logic of the police institution and inspiration of the feminist movement, given that the most frequent motivation for women in going to the specialised police stations consists of using police power to renegotiate the conjugal pact and not to criminalise the partner.

If in other contexts of liberal tradition, the police are as a rule a legal institution activated every time rights to privacy and to life are at stake, in Brazil the police are called in predominantly as a form of extra-official arbitration, with the aim of renegotiating domestic pacts. The police officers, in general female, end up intervening in the conflicts brought to the police station, calling the parties to a meeting in which they seek to mediate the conflicting interests. These interventions, reportedly at 93% of the police stations in the country (Machado 2002), often seem to have a certain impact on the solution of conjugal quarrels.

Besides the mediating function, the police are activated for extra-judicial punitive intervention. When the accused are called to make a statement, they are reprimanded, receive a “telling off” or “advice” from a policewoman to contain the conjugal violence. In this case, police power acts as coercion of the aggressor if he persists with his violent conduct. It constitutes therefore a game in which the victims seek to take some advantage from the effect of police authority over the aggressive spouse.

In comparing the women’s police station in João Pessoa, Paraíba State, with the Canadian experiences in the field of “conjugal violence”, Rifiotis (2003) identified that, despite the great differences among the Brazilian and Canadian policies, there is in both cases on

the part of the players in the institutions, a significant degree of dissatisfaction with the results achieved in the development of these services. For the author, the research conducted in Montreal attracted attention, as, "despite the multiplicity of public, state and non-governmental means available, the evaluation of the results is that they always seem to remain below the desired level" (Rifiotis 2003: 17).

On the one hand, this finding stimulates reflection on aspects that may be intrinsic to any public policy linked to the dimensions of intimacy and the private world, in which modern public institutionality of conjugal violence is a significant mark. On the other hand, the affirmation of the author reinforces the need to underline content peculiar to the Brazilian case. Here, everything indicates that the victim, generally from the lower classes, is not interested in entry to the universal, impersonal world of law. She takes advantage of the police apparatus in a peculiar manner for mediation of a private conflict, which does not correspond to the primary function of punitive police, which is to verify and investigate the crime. Without doubt, this was an absolutely unforeseeable result of the policies to combat gender violence in force then.

From the point of view of the feminist agenda, even more unexpected was the institutionalisation of the *Juizados Especiais Criminais* (JECRINs) [Petty Crime Courts], regulated through approval of Lei Federal 9.099 and established as of 1995, which ended up decriminalising conjugal violence.¹ These courts were conceived to promote mediation between the parties involved in interpersonal conflicts, facilitating agreements between victims and aggressors. As of the promulgation of this law, police stations were expected to forward denunciations of conjugal violence with women victims to these courts, even though in many Brazilian states there still prevailed the practice described in the paragraphs above. Thus, conjugal violence was considered a crime of lesser gravity, in which punishment of the aggressor, in general, was limited to supplying baskets of basic food, services rendered to the community, participation in therapeutic groups etc.

1 This institution, which seems to exist only in Brazil has as its guiding principles, orality, simplicity, informality, celerity, procedural economy, conciliation and transaction (see Burgos 2001).

This case points out another facet of the complex relation that exists between the feminist movement, the State and women victims. On the one hand, the feminist movement inaugurated a new perception that conjugal violence should be considered as a crime and the aggressor penalised. For such, it fought for the implementation of police stations specialised in attending women in the expectation that the theme of conjugal violence could be treated in the criminal sphere. Once the DEAMs had come into action, the experience of the users showed that women used the police stations much more as a space for mediation of conflicts and re-establishment of conjugal and family relations, with the aim of freeing themselves from violence. In other words, their objective was not to penalise the aggressor, but to reform him under the threat or counselling of a police authority. If it is true that women were making this type of use of the police institution, the *Juizados Especiais Criminais* (courts) meet the expectations of the victims, expectations that, in turn, oppose the perceptions of feminists about the way conjugal violence should be handled by the State.

Thus, we can consider that the JECRIMs convey in a peculiar manner the combination between the criminalising perspective of conjugal violence and the conciliatory perspective manifested by women, as shown by the experiences at the police stations. Obviously, conjugal violence has entered the legal world, but its institutionalisation has acquired local content where the family and conjugality constitute important values in gender identities.

The difficulty in imposing universal legal norms, founded on a individualist, egalitarian and universalising sociability, on the settlement of conflict, poses serious challenges to the expansion of the feminist agenda in the local context and indicates the complexity of reception of the ideology and the institutions inspired by feminism in Brazil.

2. Sexual Violence: Vices and Virtues of Denunciation

The second example of the paradoxes of the expansion of human and women's rights in the country refers to the services provided to victims of sexual violence by public health units.

In this case too, the feminist debate was responsible for the formulation that became defined as "sexual violence", a specific type of violence directed at women and inscribed in the ambit of gender rela-

tions (Sorj/Montero 1985). The category, sexual violence, has thus become a central component of feminism, mobilising public policies.³ These initiatives had the important objective of going beyond mere police or legal action, thus avoiding accusatory visions of the victim.

In 1999, fulfilling the goals of the women's rights agenda, the *Ministério da Saúde* [Ministry of Health] created a technical norm to orientate and regulate prevention, and provide treatment for sexual violence in the Brazilian public hospital network.

Such regulation not only extended this practice to all health units that provide gynaecological and obstetric services, defined as therapeutic support and social assistance, including medical care and nursing services related to the collection of material for the identification of aggression, emergency contraception, prevention of sexually transmitted disease (STDs), but also systematic service for women with pregnancy arising from rape, with provision being made for the victim to opt for a legal abortion.

The institutionalisation of the problem of sexual violence in the ambit of public health has provided many victims with the possibility of going beyond the exclusively police, legal and stigmatising vision of their experiences.

The passage of such women through the hospital service allows alteration of the public image and of her self-image, by endowing her with the genuine condition of a victim. While the denunciation made at the police station maintains the veracity of the report under suspicion, medical treatment confers accreditation to the statute of victimisation, giving credibility to the event. This new practice of medical and therapeutic care has ended up strengthening the assumption of rape in the minds of family members, friends, neighbours, work colleagues and acquaintances.

In a society influenced by the idea that rape is an individual problem of women and where this occurrence is seen in a moral dimension, which often ends up blaming them, the frequency of the victim's visits to the hospital to be cared for/treated/protected potentialises in

3 Such as the creation of PAISM (*Programa de Assistência Integral à Saúde da Mulher*), forms of government and political representation (state and national councils of women's rights, advisors, co-ordinators etc.) and, later, police stations specialised in attending women (Camargo 2000; Barsted 2002).

several ways the publicity of the event, with a significant reduction in the weight of the accusatory system.

The establishment of norms for the service provided by the hospitals includes respect for the victim's right to decide not to make a denunciation. Therefore, treatment is not conditional upon a need to publicly assume the event. However, the new situations women experience in using these services (therapy, face-to-face interaction with professionals often encouraging reports to the police, informative posters distributed throughout hospital premises inciting denunciation of crimes, etc.) have encouraged a significant number of victims to reveal the incidences to their relationship circles.

The assumption of rape before family members, acquaintances, neighbours and other relationships has nevertheless reinforced an old social practice of the defense of codes of honour and personal initiatives for the solution of violence, producing absolutely unexpected situations for those in the spectrum of the human rights agenda and the feminist ideal. When the event of rape becomes public knowledge in places of residence and in the family and friendship circles of the victims, the expression of support and solidarity assumes a violent character.

The mistrust in police institutions, in the legal system and the revolt provoked by the belief that rape injures masculine honour, motivates the private action of investigation and punishment of the rapist by the men in the community. This occurs, principally, when the woman is attacked near her home.

Women sexually attacked in public streets are approached, principally during the night or in early hours, often when returning from or setting off for work. As a rule, these victims reside in urban areas in the outskirts lacking public services, which inevitably contributes to placing certain groups of women at risk. These are eerie places, without police patrols or street lighting, waste land covered by thick bush, abandoned constructions etc. In these areas, there prevails the idea that the rape victim, especially if young, must have her "honour" and matrimonial "future" preserved by capture, or even death, of the rapist. Groups of friends, acquaintances and people from the neighbourhood are mobilised to generate strategic action for "protection" of the image of the victim and to prevent other residents from being attacked and similarly tarnished. These protective strategies include vigils organ-

ised by the residents, who start to control entry and exit of the people in their residential area and to institute rotas among the men to escort young women, waiting, for example, at bus stops or other places. The capture and avenging of aggressors may also involve criminals who have control of the local power, or even police known to be willing to act under the logic of informality and illegality.

The objective of identifying and punishing the aggressor in order to deter repetition of the event in the area may assume more or less violent forms that range from capture and delivery of the aggressor to the police to removal of the aggressor from police power to impose justice via torture or death. The torture to which the rapist is submitted depends partly on the circumstances and extent of his acts in the eyes of his "judges", but, principally on the profile of the avenging agent (criminal, father of the family, etc.) and the degree of revolt and anger of the community.

These violent responses and the seeking of private solutions may be restricted to the family circle and/or a partner in a loving relationship, without involving the community. In this case, the victimisation by sexual violence starts to be taken as a "problem" that also affects the players with whom the victim lives. The male members of the family (father, husband, brothers, even brothers-in-law, uncles etc.) may also manifest their support for the victim by organising parallel tactics of investigation and location of the aggressor. The feeling of revenge and the need to "clear" the name of the woman and/or her family motivate these actions.

Thus, it can be observed how the expansion of a new right leads to violation of the legal system, as justice against the aggressor is carried out with one's own hands. The public services to attend to victims that, in the feminist banners, had the idea of removing sexual violence from the cover of silence and the private domain, stumbles upon unexpected results that create new forms of violence.

In Brazil, the presence of drug traffic in communities seems to impinge directly on the phenomenon of sexual violence. Taking as an example the municipality of Rio de Janeiro, it is noteworthy that in the period 2001 to 2003 the greatest number of reported sex crimes, in absolute terms, was found in administrative regions that did not correspond exclusively to areas suffering the direct influence of domination by drug traffic (Moraes/Soares/Conceição 2005). In the period men-

tioned, in regions corresponding exclusively to shantytowns with a recognized presence of drug traffic, there was practically no report of sex crime.

These data may be approached from two perspectives. The first reinforces the notion that in these communities the victims avoid police involvement in solving this type of problem. Residents of areas under the control of the traffickers know that a police raid, resulting from denunciation, may cost the denouncers embarrassing or even irreversible predicaments. The second concludes that in fact cases of rape in areas with these characteristics are rare, and that probably one of the reasons for this is the moral control exercised by the parallel power perceiving rape as the most condemnable and despicable of offences, hardly tolerated even among traffickers. In this case, it constitutes control and a moralisation of the community performed by vigilantes related to the drug traffic. And paradoxically it also refers to the imposition of a sexual moral that may result in the reduction of sexual aggression targeting women.

It is necessary here to stress that a good number of women avoid publicising rape in the areas where they recognize the reaction to it is inscribed in a logic of revenge, of personal and illegal solutions. Even in situations in which public assumption of rape is inevitable, they reinforce their will to follow the legal procedure, await the official investigation, and, when consulted by these "private agents of justice" about the outcome they desire for the rapist, they manifest imperatives of legality. Most often this behaviour is aimed at protecting members of the family or community, given that, in the near future, these will be called to make statements to a justice official.

These situations illustrate, in summarised form, the unintentional, and even paradoxical, consequences of the policy to expand human rights and feminist principles and values. If the publicity of sexual violence is encouraged due to its citizenship nature, in doing so, the victim may promote a set of actions of solidarity with the family and the community that are supported by traditional moral, hierarchical and extra-legal codes.

The selected examples show that the various facets of Brazilian society, such as hierarchy and equality, or tradition and modernity, are not dichotomous dimensions of reality, nor are they even found in a linear process of evolution from one pole to the other. On the contrary,

our social identity and political culture articulate and transform both terms, producing a peculiar modernity worth unveiling.

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